

Introduced by Senator Simitian

February 21, 2008

An act to amend Section 17539.15 of the Business and Professions Code, relating to business.

LEGISLATIVE COUNSEL'S DIGEST

SB 1400, as introduced, Simitian. Sweepstakes.

Existing law provides that any person who contrives, prepares, sets up, proposes, or draws any lottery is guilty of a misdemeanor.

Existing law defines "sweepstakes" to mean any procedure for the distribution of anything of value by lot or by chance that is not unlawful. Existing law sets forth specified advertising and solicitation requirements with regard to the operation of sweepstakes, as specified.

This bill would specify that the operator of any sweepstakes may not condition the collection of a prize upon payment of a fee.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17539.15 of the Business and Professions
- 2 Code is amended to read:
- 3 17539.15. (a) Solicitation materials containing sweepstakes
- 4 entry materials shall not represent, taking into account the context
- 5 in which the representation is made, including, without limitation,
- 6 emphasis, print, size, color, location, and presentation of the
- 7 representation and any qualifying language, that a person is a
- 8 winner or has already won a prize unless that person has in fact
- 9 won a prize. If the representation is made on or visible through

1 the mailing envelope containing the sweepstakes materials, the
2 context in which the representation is to be considered, including
3 any qualifying language, shall be limited to what appears on,
4 appears from, or is visible through the mailing envelope.

5 (b) Solicitation materials containing sweepstakes entry materials
6 shall include a prominent statement of the no-purchase-necessary
7 message, in readily understandable terms, in the official rules
8 included in those solicitation materials and, if the official rules do
9 not appear thereon, on the entry-order device included in those
10 solicitation materials. The no-purchase-necessary message included
11 in the official rules shall be set out in a separate paragraph in the
12 official rules and be printed in capital letters in contrasting typeface
13 not smaller than the largest typeface used in the text of the official
14 rules.

15 (c) Sweepstakes entries not accompanied by an order for
16 products or services shall not be subjected to any disability or
17 disadvantage in the winner selection process to which an entry
18 accompanied by an order for products or services would not be
19 subject.

20 (d) Sweepstakes materials containing sweepstakes entry
21 materials shall not represent that an entry in the promotional
22 sweepstakes accompanied by an order for products or services will
23 be eligible to receive additional prizes or be more likely to win
24 than an entry not accompanied by an order for products or services
25 or that an entry not accompanied by an order for products or
26 services will have a reduced chance of winning a prize in the
27 promotional sweepstakes.

28 (e) *A person or entity that operates a sweepstakes may not*
29 *charge a fee as a condition of collecting a prize.*

30 ~~(e)~~

31 (f) For purposes of this section:

32 (1) “No-purchase-necessary message” means a statement to the
33 effect that no purchase is necessary as a condition of entering the
34 promotional sweepstakes.

35 (2) “Official rules” means the formal printed statement, however
36 designated, of the rules for the promotional sweepstakes appearing
37 in the solicitation materials. The official rules shall be prominently
38 identified and all references thereto in any solicitation materials
39 shall consistently use the designation for the official rules that

- 1 appears in those materials. Each sweepstakes solicitation shall
- 2 contain a copy of the official rules.

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